

SONOMA COUNTY

Audit Report

OPEN MEETINGS ACT/ BROWN ACT REFORM PROGRAM

Chapter 641, Statutes of 1986, and
Chapters 1136, 1137, and 1138, Statutes of 1993

July 1, 2000, through June 30, 2003



STEVE WESTLY
California State Controller

July 2005



STEVE WESTLY
California State Controller

July 22, 2005

The Honorable Rodney A. Dole
Auditor-Controller
Sonoma County
585 Fiscal Drive, Suite 101F
Santa Rosa, CA 95403-2871

Dear Mr. Dole:

The State Controller's Office audited the claims filed by Sonoma County for costs of the legislatively mandated Open Meetings Act/Brown Act Reform Program (Chapter 641, Statutes of 1986, and Chapters 1136, 1137, and 1138, Statutes of 1993) for the period of July 1, 2000, through June 30, 2003.

The county claimed \$340,710 (\$341,856 less a \$1,146 penalty for filing late claims) for the mandated program. Our audit disclosed that \$313,814 is allowable and \$26,896 is unallowable. The unallowable costs occurred because the county made errors in computing reimbursable costs. The State made no payments to the county. The State will pay allowable costs claimed, totaling \$313,814, contingent upon available appropriations.

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

VINCENT P. BROWN
Chief Operating Officer

VPB:JVB/ams

cc: Erick Roeser
SB 90 Coordinator
Auditor-Controller's Office
Sonoma County
Julianne Kamplain, Accountant
Auditor-Controller's Office
Sonoma County
James Tilton, Program Budget Manager
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Audit Report

Summary

The State Controller's Office (SCO) audited the claims filed by Sonoma County for costs of the legislatively mandated Open Meetings Act/Brown Act Reform Program (Chapter 641, Statutes of 1986, and Chapters 1136, 1137, and 1138, Statutes of 1993) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was December 7, 2004.

The county claimed \$340,710 (\$341,856 less a \$1,146 penalty for filing late claims) for the mandated program. Our audit disclosed that \$313,814 is allowable and \$26,896 is unallowable. The unallowable costs occurred because the county made errors in computing reimbursable costs. The State made no payments to the county. The State will pay allowable costs claimed, totaling \$313,814, contingent upon available appropriations.

Background

Open Meetings Act

Chapter 641, Statutes of 1986, added Sections 54954.2 and 54954.3 to the *Government Code*. Section 54954.2 requires the legislative body of a local agency, or its designee, to post an agenda containing a brief general description of each item of business to be transacted or discussed at the regular meeting, subject to exceptions stated therein, specifying the time and location of the regular meeting. It also requires the agenda to be posted at least 72 hours before the meeting in a location freely accessible to the public. Section 54954.3 requires that members of the public be provided an opportunity to address the legislative body on specific agenda items or on an item of interest that is within the subject matter jurisdiction of the legislative body. The legislation requires that this opportunity be stated on the posted agenda.

Open Meetings Act/Brown Act Reform

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7 (added or amended by Chapters 1136, 1137, and 1138, Statutes of 1993), expand the types of legislative bodies that are required to comply with the notice and agenda requirements of Sections 54954.2 and 54954.3. These sections also require all legislative bodies to perform a number of additional activities in relation to the closed-session requirements of the Brown Act.

The Commission on State Mandates (COSM) determined that the Open Meetings Act (October 22, 1987) and the Open Meetings Act/Brown Act Reform (June 28, 2001) resulted in state-mandated costs that are reimbursable under *Government Code* Section 17561.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. The COSM adopted *Parameters and Guidelines* on September 22, 1988 (last amended on November 30, 2000) for the Open Meetings Act, and on April 25, 2002, for the Open Meetings Act/Brown Act Reform. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies and school districts in claiming reimbursable costs.

The Open Meetings Act became effective on August 29, 1986. Commencing in fiscal year (FY) 1997-98, a local agency may use the standard-time or flat-rate reimbursement options specified in *Parameters and Guidelines* instead of actual costs. The Open Meetings Act/Brown Act Reform was effective for FY 2001-02.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Open Meetings Act/Brown Act Reform Program for the period of July 1, 2000, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, not funded by another source, and not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the county's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the county's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Sonoma County claimed \$340,710 (\$341,856 less a \$1,146 penalty for filing late claims) for costs of the Open Meetings Act/Brown Act Reform Program. Our audit disclosed that \$313,814 is allowable and \$26,896 is unallowable.

For FY 2000-01, the State made no payments to the county. Our audit disclosed that \$96,268 is allowable. The State will pay that amount contingent upon available appropriations.

For FY 2001-02, the State made no payments to the county. Our audit disclosed that \$106,012 is allowable. The State will pay that amount contingent upon available appropriations.

For FY 2002-03, the State made no payments to the county. Our audit disclosed that \$111,534 is allowable. The State will pay that amount contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on May 6, 2005. Rodney A. Dole, county Auditor-Controller, responded by letter dated May 23, 2005, disagreeing with a portion of Finding 2. The county's response is included as an attachment to this audit report.

Restricted Use

This report is solely for the information and use of Sonoma County, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

JEFFREY V. BROWNFIELD
Chief, Division of Audits

**Schedule 1—
Summary of Program Costs
July 1, 2000, through June 30, 2003**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2000, through June 30, 2001</u>				
Standard time	\$ 72,283	\$ 57,374	\$ (14,909)	Finding 1
Flat rate	38,574	39,894	1,320	Finding 2
Subtotal	110,857	97,268	(13,589)	
Less allowable costs in excess of claimed ²	—	—	—	
Subtotal	110,857	97,268	(13,589)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$ 109,857</u>	96,268	<u>\$ (13,589)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 96,268</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Standard time	\$ 59,533	\$ 61,572	\$ 2,039	Finding 1
Flat rate	46,625	46,176	(449)	Finding 2
Subtotal	106,158	107,748	1,590	
Less allowable costs in excess of claimed ²	—	(1,590)	(1,590)	
Subtotal	106,158	106,158	—	
Less late penalty	(146)	(146)	—	
Total program costs	<u>\$ 106,012</u>	106,012	<u>\$ —</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 106,012</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Standard time	\$ 62,499	\$ 65,262	\$ 2,763	Finding 1
Flat rate	62,342	46,272	(16,070)	Finding 2
Subtotal	124,841	111,534	(13,307)	
Less allowable costs in excess of claimed ²	—	—	—	
Subtotal	124,841	111,534	(13,307)	
Less late penalty	—	—	—	
Total program costs	<u>\$ 124,841</u>	111,534	<u>\$ (13,307)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 111,534</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>Summary: July 1, 2000, through June 30, 2003</u>				
Standard time	\$ 194,315	\$ 184,208	\$ (10,107)	Finding 1
Flat rate	<u>147,541</u>	<u>132,342</u>	<u>(15,199)</u>	Finding 2
Subtotal	341,856	316,550	(25,306)	
Less allowable costs in excess of claimed ²	<u>—</u>	<u>(1,590)</u>	<u>(1,590)</u>	
Subtotal	341,856	314,960	(26,896)	
Less late penalty	<u>(1,146)</u>	<u>(1,146)</u>	<u>—</u>	
Total program costs	<u>\$ 340,710</u>	313,814	<u>\$ (26,896)</u>	
Less amount paid by the State		<u>—</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 313,814</u>		

¹ See the Findings and Recommendations section.

² *Government Code* Section 17561 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in the SCO's claiming instructions.

Findings and Recommendations

**FINDING 1—
Errors made in
computing standard-
time costs**

The county claimed a portion of its costs under the standard-time reimbursement option. Under this method, reimbursable costs are based on the number of meeting agenda items, a blended productive hourly labor rate for employees involved in the mandated activities, and a standard number of minutes for each meeting agenda item prepared. We noted the following errors in the claims.

- The county used incorrect employee base salary rates, fringe benefit rates, and indirect cost rates in computing its blended hourly rates.
- In some cases, the county understated the number of allowable agenda items, and also included some duplicate items.

Parameters and Guidelines for the mandated programs specifies that costs claimed must be traceable to source documents and/or worksheets that show evidence of and the validity of such costs.

As a result, we have adjusted claimed costs as follows.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Standard-time option:				
Board of Supervisors	\$ (15,330)	\$ 2,317	\$ 2,763	\$ (10,250)
Retirement Board	421	(278)	—	143
Audit adjustment	<u>\$ (14,909)</u>	<u>\$ 2,039</u>	<u>\$ 2,763</u>	<u>\$ (10,107)</u>

Recommendation

We recommend that the county ensure that costs claimed are eligible increased costs incurred as a result of the mandate and that they are supported by appropriate documentation.

County’s Response

The county agreed with the finding.

SCO’s Comment

The finding and recommendation remain unchanged.

**FINDING 2—
Errors made in
computing flat-rate
costs**

The county claimed a portion of its costs under the flat-rate reimbursement option. Under this method, reimbursable costs are based on the number of eligible meetings and a uniform cost allowance per meeting. We noted the following errors in the claims.

- The county claimed some of the same meetings under both the standard-time and the flat-rate options.
- The county claimed some Board of Supervisors meetings under the standard-time option and others under the flat-rate option.

- The claims included some meetings that were canceled.
- The claims omitted some eligible meetings.

Parameters and Guidelines for the mandated programs specifies that costs claimed must be traceable to source documents and/or worksheets that show evidence of and the validity of such costs. Also, all meetings of a legislative body must be claimed under one reimbursement option in a fiscal year.

As a result, we have adjusted claimed costs as follows.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Flat-rate option:				
Board of Supervisors	\$ —	\$ —	\$ (3,191)	\$ (3,191)
Retirement Board	(1,868)	—	—	(1,868)
Office of Commissions	1,319	—	—	1,319
PRMD	1,869	(449)	(12,879)	(11,459)
Audit adjustment	\$ 1,320	\$ (449)	\$ (16,070)	\$ (15,199)

Recommendation

We recommend that the county ensure that costs claimed are eligible increased costs incurred as a result of the mandate and that they are supported by appropriate documentation.

County’s Response

The county disagreed with the audit adjustment made for cancelled meetings, contending that program guidelines do not specify that cancelled meetings are ineligible for reimbursement.

SCO’s Comment

The adjustment for cancelled meetings was made because the same agenda was used for the subsequent meeting, with the meeting date updated. However, since program guidelines are unclear on this subject, we have revised the finding to allow the costs of the cancelled meetings. The remainder of the finding remains as stated in the draft audit report.

**Attachment—
County’s Response to
Draft Audit Report**

RODNEY A. DOLE
AUDITOR-CONTROLLER

Auditor-Controller
County of Sonoma

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DONNA M. DUNK
ASSISTANT
AUDITOR-CONTROLLER

May 23, 2005

Mr. Jim L. Spano
Chief, Compliance Audits Bureau
State Controller's Office, Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Dear Mr. Spano:

Thank you for providing the County of Sonoma with the opportunity to comment on the draft findings in your audit report on the Open Meetings Act state mandated program. This letter provides you with a response to each of draft audit findings outlined in the report received by the county on May 12, 2005.

Finding 1 – Standard-Time Costs

The county agrees with the finding and adjustments made to the claimed amounts. Staff will work with its consultant as well as involved agencies and departments to ensure that cost claimed for this program are eligible increased costs as a result of the mandate and that those costs are supported by appropriate documentation.

Finding 2 – Flat-Rate Costs

Generally the county agrees with the adjustments made to claims based on Finding 2, but must respectfully disagree with the State Controller's Office (SCO) disallowance of canceled meetings. It appears SCO field audit staff may have made an interpretation of eligible costs that is not specifically addressed by the program's Parameters and Guidelines. Nowhere in the Parameters and Guidelines is it stated that canceled meetings are not eligible for reimbursement.

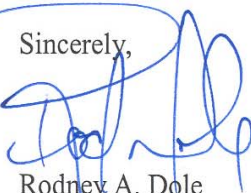
Prior to claiming costs for canceled meetings, county staff closely examined the claiming instructions and Parameters and Guidelines for clarification. According to those guidelines released by the SCO on July 2, 2002, the flat-rate method "...shall be used to claim the cost of each agenda that was prepared during the fiscal year." There is no mention in the instructions that meetings that are canceled are not eligible. Regardless of whether a meeting is held, the activity in question occurs prior to that and the county is still required by statute to "prepare and post an agenda." At the time the reimbursable mandated activity is performed, the County has no choice but to comply with Government Code section 54954.2 which requires that the legislative body of the local agency, post an agenda containing a brief general description of each item of business to be transacted or discussed at the regular meeting, 72 hours in advance of the

meeting. If that meeting is subsequently canceled, the County still performed the required activity and is entitled to seek reimbursement of its cost to do so. Other than those few meetings disallowed because of cancellation, the County agrees with the adjustments to the claimed amounts as a result of Finding 2 in the draft report.

The County of Sonoma will carefully consider the items discussed in your findings and plans to amend the FY 2002-2003 claim based on the information and recommendations provided by your report.

Again, thank you for this opportunity to submit written comments on the draft audit report findings. If you have any questions about this response, please do not hesitate to contact Erick Roeser at (707) 565-2787.

Sincerely,



Rodney A. Dole
Auditor-Controller
County of Sonoma

RAD/4835/er

Cc: Jeffrey Brownfield, SCO Division of Audits Chief
Carvin Seals, SCO Field Auditor
Patrick Dyer, Public Resource Management Group

**State Controller's Office
Division of Audits
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